

[REDACTED]

CERTIFIED MAIL

[REDACTED]

[REDACTED]

[REDACTED]

OCT 1 1986

Dear Sir or Madam:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code and the supporting information submitted.

The evidence submitted indicates that you were incorporated under the laws of [REDACTED] on [REDACTED]. Your purposes, as stated in your Articles of Incorporation, are to function as a Unit Owners' Association under the Uniform Condominium Act.

Membership consists of the Unit Owners of [REDACTED].

Your activities include collecting assessments from your members for the maintenance and management of common areas.

Your income comes from membership fees, assessments, and investment income.

Section 501(c)(3) of the Code exempts organizations which are organized and operated exclusively for charitable and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one of the purposes specified in that section. If an organization does not meet either the organizational or operational test it is not exempt.

Section 1.501(c)(3)-1(b)(1) of the Regulations requires that organizations seeking exemption under section 501(c)(3) have purposes which are exclusively charitable, educational, etc., as defined in section 501(c)(3).

[REDACTED]

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Based on the information submitted, it appears that you are not organized exclusively for charitable and educational purposes since your Articles of Incorporation do not contain purposes limited to those allowable under section 501(c)(3), nor do they contain any provisions for the proper distribution of your assets should dissolution occur.

Your activities are not charitable or educational within the meaning of the Code and Regulations cited above.

We also considered whether your organization could qualify under section 501(c)(4) of the Code as a social welfare organization.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 74-17, found in Cumulative Bulletin 1974-1, on page 130, describes an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners. The Ruling held that the organization did not qualify for exemption under section 501(c)(4), stating in part, "Since the organization's activities are for the private benefit of its members, it cannot be said to be operated exclusively for the promotion of social welfare."

We have concluded, therefore, that you are not an organization described in section 501(c)(3) of the Code. We have also concluded that based on the information submitted and the Code, Regulations and Revenue Ruling cited above, you are not an organization described in section 501(c)(4) of the Code. Further, exempt status will not be recognized under any related paragraph of section 501(c) of the Code.

[REDACTED]

Your attention is called to section 528 of the Code which provides certain procedures by which qualifying condominium management associations or residential real estate management associations may elect to receive tax benefits which, in effect, allow partial treatment as a tax-exempt organization. If you determine that you qualify under section 528, you may elect to file an annual tax return on Form 1120-H, instead of a corporate income tax return.

If you do not file the Form 1120-H, you are required to file Federal income tax returns on Form 1120. File returns for all years prior to the date of this letter with your Key District Director within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later years with the appropriate service center indicated in the instructions for those returns.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final and a copy of this letter will be sent to the appropriate state officials in accordance with section 6104(c) of the Internal Revenue Code.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]
District Director

Enclosure: Publication 892
cc: State Attorney General - [REDACTED]